

REMARKS

The Office Action of March 15, 2006 has been carefully reviewed and these remarks are responsive thereto. Claims 2, 5, 22 and 25 have been canceled. Claims 3-4, 10-20, 23-24 and 30-41 have been withdrawn. Claims 1, 6, 21, and 26 have been amended. Reconsideration of the application in view of the foregoing amendments and following remarks is respectfully requested. Each of the Examiner's rejections is discussed below.

Section 102

Brown

Claims 1, 5, 6, 7, 21, 25, 26 and 27 have been rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 583,641 to Brown ("Brown"). This rejection is respectfully traversed.

Brown discloses a rubber sole for a shoe having a raised surface part 1 with a groove 2 formed therein and a plurality of ridges extending downwardly from the sole. Brown fails to disclose or make obvious a plurality of fins projecting downwardly from a lower surface of a sole with at least some of the fins angled rearwardly, as required by independent claims 1 and 21.

The ridges of Brown all extend directly downward from the sole; none of the ridges of Brown are angled rearwardly. Accordingly the rejection is improper and should be withdrawn.

Dassler '759

Claims 1, 2, 5, 7, 21, 22, 25, and 27 have been rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 4,404,759 to Dassler ("Dassler '759"). This rejection is respectfully traversed.

Dassler '759 discloses an athletic shoe having a sole with cleat-like projections 3, 4, 5 and 6 extending from its tread sole 1. The Office Action states that Dassler '759 shows an outer peripheral lip (8), an inner peripheral lip (19) and a plurality of rearwardly angled fins formed by the rearmost 16 on each projection 5. Applicants assume that there is a typographical error in the

Office Action and that the peripheral lip “8” is intended to be outer blade 18, which is spaced from blade 19.

Dassler ‘759 fails to disclose or make obvious a peripheral lip projecting downwardly and outwardly from the lower surface of a sole and extending about the entire periphery of the lower surface, as required by independent claim 1, or a peripheral lip projecting downwardly and outwardly and extending about the entire periphery of the sole, as required by independent claim 21. Outer blade 18 of Dassler ‘759 is merely a short blade extending only along the length of each projection 4, and clearly does not extend about the entire periphery of the lower surface or the sole. Accordingly the rejection is improper and should be withdrawn.

Sessa ‘385

Claims 1, 2, 5-7, 21, 22, and 25-27 have been rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 5,918,385 to Sessa (“Sessa ‘385”). This rejection is respectfully traversed.

Sessa ‘385 discloses a shoe having a sole 10 with a plurality of internal lugs 24 and peripheral lugs 20. Ridges 36a-c protrude about the periphery of sole 10.

Sessa does not disclose or make obvious a plurality of fins projecting downwardly from the lower surface of a sole with at least some of the fins extending transversely across substantially an entire width of the lower surface, as required by independent claim 1, or a plurality of downwardly projecting fins with at least some of the fins extending transversely across substantially an entire width of the lower surface, as required by independent claim 21.

The sole of Sessa ‘385 discloses rows having multiple lugs 24 positioned between peripheral lugs 20. There are no fins extending transversely across substantially an entire width of the sole of Sessa ‘385. Accordingly, the rejection is improper and should be withdrawn.

Dassler ‘145

Claims 1, 7, 9, 21, 27, and 29 have been rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 4,402,145 to Dassler (“Dassler ‘145”). This rejection is respectfully traversed.

Dassler ‘145 discloses a tread sole having a plurality of frustoconical nubs extending downwardly from sole 1.

Dassler ‘145 does not disclose or make obvious a peripheral lip projecting downwardly and outwardly from the lower surface of a sole and extending about the entire periphery of the lower surface, as required by independent claim 1, or a peripheral lip projecting downwardly and outwardly and extending about the entire periphery of the sole, as required by independent claim 21. The nubs 15 and 16 of Dassler ‘145 cannot be considered a peripheral lip, but are rather frustoconical nubs, and certainly do not constitute a peripheral lip extending about the entire periphery of the lower surface or sole. Accordingly the rejection is improper and should be withdrawn.

Section 103

Claims 8 and 28 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over either Brown, Dassler ‘759, Sessa, or Dassler ‘145. This rejection is respectfully traversed.

Claims 8 and 28 would not be obvious due to the deficiencies of Brown, Dassler ‘759, Sessa, and Dassler ‘145 discussed above with respect to independent claims 1 and 21, from which claims 8 and 28 depend. Accordingly the rejection is improper and should be withdrawn.

Nonstatutory Double Patenting

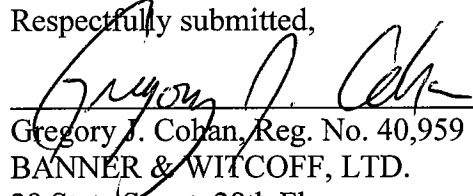
Claims 1, 2, 5-9, 21, 22 and 25-29 are rejected on the ground of nonstatutory doctrine of double patenting over the allowed claims copending Application No. 10/688369. To overcome this rejection, Applicants are herewith filing an appropriate terminal disclaimer.

Conclusion

Pending claims 1, 2, 5-9, 21, 22 and 25-29 are believed to be in form for allowance, and in indication to that effect is respectfully requested. Examination of withdrawn claims 3, 4, 10-20, 23, 24, and 30-41 is respectfully requested at this time. The Commissioner is hereby authorized to charge any fees or credit any overpayments to **Deposit Account No. 19-0733**.

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Respectfully submitted,



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